

(3) *Procedures for filing a protest.* A reclamation protest must be in writing, and must be sent to: Department of the Treasury, Financial Management Service, Financial Processing Division, Reclamation Branch, Room 700D, PO Box 1849, Hyattsville, MD 20788, or to such other address as Treasury may publish in the Treasury Financial Manual, which can be found at <http://www.fms.treas.gov>.

(i) The reclamation protest must include supporting documentation (including, but not limited to, affidavits, account agreements, and signature cards) for the purpose of establishing that the reclamation debtor is not liable for the reclamation debt.

(ii) Treasury will not consider reclamation protests received more than 90 days after the reclamation date.

(iii) Treasury may, at its discretion, consider information received from a guarantor other than the reclamation debtor. However, in so doing, Treasury does not waive any of its rights under this Part, nor does Treasury grant rights to any guarantor that are not otherwise provided in this Part.

(4) *Review of a reclamation protest.* The Director, Financial Processing Division, or an authorized designee, will make every effort to decide any protest properly submitted under this section within 60 days, and will notify the reclamation debtor of Treasury's decision. In those cases where it is not possible to render a decision within 60 days, the Director, Financial Processing Division, or an authorized designee, will notify the reclamation debtor of the delay. Neither the Director, Financial Processing Division, nor an authorized designee, will have any involvement in the process of making determinations under § 240.7(a) of this Part or sending a "REQUEST FOR REFUND (CHECK RECLAMATION)" under § 240.8(a) of this Part.

(i) Treasury will refrain from the collection activities identified in §§ 240.9 and 240.10 while a timely protest is being considered. However, interest, penalties, and administrative costs will continue to accrue and will be added to the reclamation debt until a final determination on the protest has been made.

(ii) If, based on the evidence provided, the Director of the Financial Processing Division, or an authorized designee, finds that the reclamation debtor has met, by a preponderance of the evidence, the criteria in paragraph (b)(2) of this section, Treasury will notify the reclamation debtor, in writing, of his or her decision to terminate collection and will refund any amounts previously collected for the reclamation debt. Treasury may refund the amount either by applying the amount to another reclamation debt owed by the reclamation debtor in accordance with this Part or other applicable law, or by returning the amount to the reclamation debtor.

(iii) If the Director, Financial Processing Division, or an authorized designee, finds, by a preponderance of the evidence, that the reclamation debtor is liable for the reclamation debt, Treasury will notify the reclamation debtor, in writing, of his or her decision. If the reclamation debtor has not paid the reclamation in full, the reclamation debtor must pay any outstanding amounts in full within 30 days from the date of Treasury's decision. If the reclamation debtor fails to pay the reclamation debt in full within that time frame, Treasury will proceed to collect the reclamation debt through offset in accordance with §§ 240.9 and 240.10.

(5) *Effect of protest decision.* The notice provided to the reclamation debtor under paragraph (b)(4)(iii) of this section shall serve as the final agency determination under the Administrative Procedure Act (5 U.S.C. 701, *et seq.*). No civil suit may be filed until the reclamation debtor has filed a protest under this section, and Treasury has provided notice of its final determination.

#### § 240.9 Offset.

(a) If a reclamation debt remains unpaid for 120 days after the reclamation date, Treasury will refer the reclamation debt, if eligible, to Treasury's centralized offset program (see 31 CFR Part 285) or another Federal agency for offset in accordance with 31 U.S.C. 3716. Prior to making a referral for offset, Treasury, in accordance with § 240.8(a)(3), will send at least one

monthly statement to the reclamation debtor informing the reclamation debtor that Treasury intends to collect the reclamation debt by administrative offset and Treasury Check Offset.

(b) If a reclamation debtor wishes to make payment on a reclamation debt referred for offset, the reclamation debtor should contact Treasury at the address listed in § 240.8(b) to resolve the debt and avoid offset.

(c) If Treasury is unable to collect a reclamation debt by use of the offset described in paragraph (a) of this section, Treasury shall take such action against the reclamation debtor as may be necessary to protect the interests of the United States, including, but not limited to, Treasury Check Offset in accordance with § 240.10, or referral to the Department of Justice.

(d) If Treasury effects offset under this section and it is later determined that the reclamation debtor already had paid the amount of the reclamation debt, or that a reclamation debtor which had timely filed a protest was not liable for the amount of the reclamation, Treasury will promptly refund to the reclamation debtor the amount of its payment. Treasury may refund the amount either by applying the amount to another reclamation debt owed by the reclamation debtor in accordance with this Part or other applicable law, or by returning the amount to the reclamation debtor.

#### § 240.10 Treasury Check Offset.

(a) If Treasury is unable to effect collection pursuant to §§ 240.7, 240.8, or 240.9, of this Part, Treasury will collect the amount of the reclamation debt through Treasury Check Offset. Treasury Check Offset occurs when, at the direction of the Treasury, a Federal Reserve Bank withholds, that is, offsets, credit from a presenting bank. The amount of credit offset is applied to the reclamation debt owed by the presenting bank. By presenting Treasury checks for payment, the presenting bank is deemed to authorize Treasury Check Offset.

(b) If Treasury effects offset under this section and it is later determined that the presenting bank paid the reclamation debt in full, or that a presenting bank was not liable for the

amount of the reclamation debt, Treasury will promptly refund to the presenting bank the amount of its overpayment. Treasury may refund the amount either by applying the amount to another reclamation debt in accordance with this Part or other applicable law, or by returning the amount to the presenting bank.

(c) Treasury Check Offset is used for the purpose of collecting debt owed by a presenting bank to the Federal Government. As a consequence, presenting banks shall not be able to use the fact that Treasury checks have not been paid as the basis for a claim against Treasury, a Federal Reserve Bank, or other persons or entities, including payees or other indorsers of checks, for the amount of the credit offset pursuant to 31 U.S.C. 3712(e) and this section.

(d) This section does not apply to a claim based upon a reclamation that has been outstanding for more than 10 years from the date of delinquency.

#### § 240.11 Processing of checks.

(a) *Federal Reserve Banks.* (1) Federal Reserve Banks must cash checks for Government disbursing officials when such checks are drawn by the disbursing officials to their own order, except that payment of such checks must be refused if:

(i) A check bears a material defect or alteration;

(ii) A check was issued more than one year prior to the date of presentment; or

(iii) The Federal Reserve Bank has been notified by Treasury, in accordance with § 240.14(c), that a check was issued to a deceased payee.

(2) Federal Reserve Banks are not required to cash checks presented directly to them by the general public.

(3) As a depository of public funds, each Federal Reserve Bank shall:

(i) Receive checks from its member banks, nonmember clearing banks, or other depositors, when indorsed by such banks or depositors who guarantee all prior indorsements thereon;

(ii) Give immediate provisional credit therefore in accordance with their current Time Schedules and charge the amount of the checks cashed or otherwise received to the General Account of the United States Treasury, subject